

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-190V

Filed: January 11, 2018

UNPUBLISHED

AMBER MCATEER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Lawrence R. Cohan, Anapol Weiss, Philadelphia, PA, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On February 8, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) following an influenza (“flu”) vaccination on October 1, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 21, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for a SIRVA. On January 11, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$104,350.44 (\$102,500 for pain and suffering and \$1,850.44 for out-of-pocket expenses). Proffer at 1. In the Proffer, respondent represented that petitioner agrees

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$104,350.44 (\$102,500.00 for pain and suffering, and \$1,850.44 for out-of-pocket expenses) in the form of a check payable to petitioner, Amber McAteer.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$104,350.44 in the form of a check payable to petitioner.

Petitioner agrees.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

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Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
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s/Christine Mary Becer
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Date: January 11, 2018